



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,875	09/12/2001	Heinz Gernhardt	011881-1940	8266

7590 04/30/2004

George M. Thomas
Thomas, Kayden, Horstemeyer & Risley, LLP
Suite 1750
100 Galleria Parkway, NW
Atlanta, GA 30339-5948

EXAMINER

NGUYEN, JOHN QUOC

ART UNIT	PAPER NUMBER
----------	--------------

3654

DATE MAILED: 04/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/954,875

Applicant(s)

GERNHARDT ET AL.

Examiner

John Q. Nguyen

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Pri rity under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3654

Applicant's election without traverse of the species of fig. 2 in Paper No. 6 has been acknowledged.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 31 and 35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Said subject matter is "nominal bending portion being formed by tapered portions". It should be noted that the original specification describes "plate-like portions 23 having plane surfaces on which, for example, extensometer strips 24 are located".

Claims 31-37 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For clarity and/or definiteness, it appears that —respective—should be inserted before "bobbin" and "drive" (claim 35, line 7), that —each—should be inserted after "wherein" (claim 36, line 1).

The following are not accurate: that the extensometer strips are arranged in the nominal bending portion which is described as being formed by tapered portion (see rejection under 35 U.S.C. 112, first paragraph, above). It is deemed that these

Art Unit: 3654

extensometer strips are on a plane surface like the plane surface of Grundy et al '656 on which the means 22 and 24 are located (Fig. 2).

The claims reciting the following functions/functional statements lack recitation of sufficient structures/elements and/or essential structural cooperative relationships of elements to enable the recited functions/functional statements to be effected: "said signal serving to control the drive" (claims 31 and 35)

All claims should be revised carefully to correct all other deficiencies similar to the ones noted above.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 31-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grundy et al (US 4546656) in view of Canfield (US 3526130) or vice versa, Canfield in view of Grundy et al.

Grundy et al discloses an apparatus having substantially all the claimed features including arm 20, roller 44, sensors/extensometers 28, 30, 22, 24 located in a "nominal bending portion", tubular housing 10 with stops 50 (fig. 2). The winding spindle and a drive are deemed inherent (see at least column 1, lines 14-17). It is not deemed that other elements are contacted in between since this appears to be the object of the invention (see column 1) or, alternatively, whether or not other elements (other than tension measurement equipments) are contacted in between the feeding apparatus and the roller would have been an obvious matter of design choice to a person having ordinary skill in the art based on factors such as operational preference, design criteria, and space optimization. That the stops are adjustable to adjust the amount of

Art Unit: 3654

maximum deflection would have been an obvious matter of design choice to a person having ordinary skill in the art based on factors such as preference and design criteria, as the provision of adjustability where desired would have been obvious to a person having ordinary skill in the art. Relative to claims 35-37, duplication of parts for a multiplied effect would have been obvious to a person having ordinary skill in the art.

Canfield discloses another similar apparatus in which a traversing apparatus 33, which is old and well known in the art, is provided to distribute the strands along the winding spindle. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Grundy et al with a traversing apparatus as taught by Canfield to distribute the strands along the winding spindle. Fig. 10 also discloses a system to control the drive with the tension signals. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Grundy et al with a system to control the drive with the tension signals to obtain a constant tension roll.

Alternatively, It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Canfield with a tension sensing system as taught by Grundy et al to sense tension in the fibers as they are being wound.

Applicant's arguments filed 2/20/04 have been fully considered but they are not persuasive.

It should be noted that the claims do not preclude the sensors to be located at 90 degrees to one another. Also, as noted above, Canfield shows the use of tension signals to control the drive of the winding machine.

Art Unit: 3654

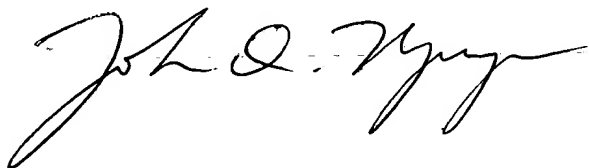
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Q. Nguyen whose telephone number is (703) 308-2689. The examiner can normally be reached on Monday-Friday from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki, can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.

A handwritten signature in black ink, appearing to read 'John Q. Nguyen', is written over a horizontal dashed line.

John Q. Nguyen
Primary Examiner
Art Unit 3654